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15 KENMARK VENTURES, LLC

16 **UNITED STATES BANKRUPTCY COURT**
17 **DISTRICT OF NEVADA**

18 In re:
19 ANTHONY THOMAS and WENDI
20 THOMAS,
21 AT EMERALD, LLC,
22 Debtors.

23 KENMARK VENTURES, LLC

24 Plaintiff,

25 v.

26 ANTHONY THOMAS and WENDI
27 THOMAS,
28 Defendants.

Case No. BK-N-14-50333-BTB
Case No. BK-N-14-50331-BTB

Chapter 7

[Jointly Administered]

Adv. Pro. No. 14-5022

**PLAINTIFF KENMARK VENTURES,
LLC'S TRIAL STATEMENT**

Pre-Trial

Conference Date: October 7, 2015

Time: 2:00 p.m.

Courtroom: Two

Trial Date: October 15, 2015

Reserving all rights and remedies, Plaintiff KENMARK VENTURES, LLC ("Kenmark") submits this Trial Statement.

1. Fed.R.Bankr.Pro.7026(a)(3) Pre-Trial Disclosures

1 Kenmark filed the attached FRBP 7026(a)(3) Pre-Trial Disclosures with the Court on
 2 September 16, 2015 as Docket No. 33 in the above-captioned Adversary Proceeding No. 14-5022
 3 ("Adversary Proceeding"). Kenmark filed the attached First Supplement to FRBP 7026(a)(3) Pre-
 4 Trial Disclosures with the Court on September 22, 2015 as Docket No. 34 in the Adversary
 5 Proceeding.

6 **2. Nature of the Action and Kenmark's Contentions**

7 Kenmark is suing Defendant and Debtor ANTHONY THOMAS¹ ("Thomas") for a
 8 determination that a \$4.5 million dollar judgment against him is non-dischargeable under 11 U.S.C.
 9 §523(a)(2)(A)² for fraud – intentional misrepresentation and concealment.

10 Thomas is a con artist who defrauded Kenmark out of \$6,110,000.00. Kenmark's unfortunate
 11 involvement in Thomas's scam began in the summer of 2007, when Thomas approached the
 12 principals of Kenmark with an "investment opportunity" in ELECTRONIC PLASTICS, LLC
 13 (referred to as "EP"). EP was a Nevada LLC that Kenmark believes became a Delaware LLC. EP
 14 was also registered as a foreign LLC in California that filed for bankruptcy in 2009. The names,
 15 multiple addresses and relationships among these (and perhaps other) entities named ELECTRONIC
 16 PLASTICS are unclear, and the lack of clarity is no accident.

17 AT EMERALD (a Debtor in these consolidated bankruptcy cases) was a founder and
 18 majority stakeholder in EP. Thomas was initially the sole member of AT EMERALD, until he took
 19 on MICHAEL GARDINER ("Gardiner") as an equal "partner" for no consideration sometime in
 20 2006. Thomas became the sole member and managing member of AT EMERALD again by July,
 21 2008. Any distinction between Thomas and AT EMERALD is a sham.

22 Thomas told Kenmark's principals how he and others (Gardiner and WAYNE DRIZIN
 23 ("Drizin")) had developed "a revolutionary and proprietary biometric smartcard technology for
 24 authenticating identification of electronic transactions and other applications" ("Smartcard

25
 26 ¹ Defendant WENDI THOMAS is sued solely to the extent of her community property interests
 27 and to the extent Kenmark is determined to be the holder of a "community claim" as defined by
 28 11 U.S.C. §101(7), et seq.

² Further references to Title 11 of the U.S. Code are referred to as "Code §."

1 Technology"). To induce Kenmark to loan him money, Thomas made a number of false statements
2 to Ken Tersini (one of Kenmark's principals), and concealed material facts about the Smartcard
3 Technology, the status and financial condition of EP, and the cast of characters behind EP. The list
4 of Thomas's false statements and concealments of material facts is long.

5 - False Statements

6 The timing and sequence of Thomas's false statements bear the hallmark of a classic con.
7 First, Thomas told Ken Tersini that EP was at the stage of marketing the Smartcard Technology for
8 commercial use and manufacturing, and EP had a signed order on hand for Smartcards from a South
9 Korean Bank which would generate \$200 million in sales. Next, Thomas told Ken Tersini that the
10 Korean Bank opportunity and perhaps all of EP would be lost if Thomas did not immediately secure
11 additional funding to pay the upcoming EP payroll. Thomas's statements were false. There was no
12 Korean Bank deal. Even worse, the EP Smartcard Technology was nowhere near the stage of
13 marketing for commercial use and manufacturing. But the real kicker was when Thomas told Ken
14 Tersini was that that EP owned or had an exclusive worldwide license for the use of the Smartcard
15 Technology for all commercial purposes including manufacturing and marketing. That statement
16 was also false, as EP's right to the Smartcard Technology was being challenged in a pending lawsuit,
17 discussed below. Finally, the EP Business Plan that Thomas gave to Ken Tersini contained a number
18 of false statements.

19 Thomas knowingly and intentionally made these false statements, and gave Kenmark the EP
20 Business Plan, knowing Kenmark would rely on them in making its decision to loan money to
21 Thomas and EP.

22 - Concealment of Material Facts

23 One of Thomas's most egregious concealments was the existence of a contentious lawsuit
24 filed by E-Smart Technologies ("E-Smart") against EP, Gardiner and Drizin that was pending in
25 2007 when Thomas conned Kenmark out of the \$6,110,000.00. That lawsuit alleged that EP had
26 stolen the Smartcard Technology from E-Smart, when E-Smart employee Drizin left E-Smart and
27 joined forces with Gardiner, who was alleged to have previously manufactured defective products
28 for E-Smart and thereby gained access to E-Smart's proprietary technology. Another serious

1 concealment was the fact both Drizin and Gardiner were alleged to be convicted felons. And the list
 2 goes on. Thomas knowingly and intentionally concealed these material facts knowing Kenmark
 3 would not invest in EP if the truth were told.

4 - The Thomas Emerald

5 To seal the deal and reassure Kenmark that due diligence was not necessary (there was no
 6 time for due diligence given the imminent loss of that lucrative Korea Bank deal and collapse of EP),
 7 Thomas offered Kenmark a first priority security interest in an uncut emerald specimen of
 8 approximately 21,000 carats (the “Thomas Emerald”) to secure the loan, along with documents that
 9 supported the Thomas Emerald’s bogus value of hundreds of millions of dollars. Thomas stated he
 10 was the owner of the Thomas Emerald. Thomas provided a notarized statement; “the History of the
 11 Thomas Emerald”, explaining how he had come to own the Thomas Emerald. The History claims
 12 the Emerald was “presented” to Thomas by a group of Brazilian miners, grateful for his financial and
 13 other assistance. Thomas first showed and then gave Ken Tersini pictures of the Emerald as well as
 14 appraisals. These appraisals ranged from a low of \$650 million to a high of \$800 million. Each
 15 appraisal waxed poetic about the grand and rare the Thomas Emerald. It was represented as “one of
 16 the largest emeralds in the world, if not the largest.”

17 Since the amounts being requested by Thomas were infinitesimal compared to a value of the
 18 Thomas Emerald (\$600 – \$800 million), Kenmark felt that its first security position in the Thomas
 19 Emerald would over-secure the total loan advances by a factor of at least 100.

20 - Kenmark’s Loan, EP’s Demise and the Aftermath

21 Kenmark ultimately loaned Thomas and EP a total of \$6,110,000.00 evidenced by, among
 22 other things, a Demand Note and Security Agreement, only to find out EP was a sham, built on
 23 wrongfully appropriated technology from another company, and was destined to fail. Likewise, the
 24 true value of the Thomas Emerald (which Thomas purchased for \$20,000 and was appraised at
 25 \$400,000 when he bought it), comes nowhere close to the amount of Kenmark’s loan.

26 When EP failed in the fall of 2008 (of course right after all of Kenmark’s money was gone),
 27 Thomas stopped communicating with Kenmark, and had his attorney write Kenmark proclaiming the
 28 loan was actually an equity investment in EP, Kenmark had released its security in the Thomas

1 Emerald, and Thomas would not pay anything back to Kenmark on the \$6,110,000.00 loan. A
 2 lawsuit followed in the Santa Clara Superior Court, Case No. 108CV130667 (the “State Court
 3 Action”).

4 Thomas, who was represented by counsel in the State Court Action, agreed to a settlement in
 5 the amount of \$5.0 million as a condition of which Kenmark released its security interest in the
 6 Thomas Emerald. After the first payment of \$500,000 to Kenmark on or about January 1, 2013, no
 7 other payments were made on the settlement. Thomas subsequently agreed to entry of a Judgment on
 8 the Fourth and Fifth Causes of Action in the Complaint in the State Court Action for \$4.5 million if a
 9 payment of \$575,000 was not made on the settlement by January 30, 2014. Thomas signed a
 10 Stipulation for Judgment in the event the \$575,000 was not made; that payment was never made.

11 Thomas filed the above-captioned bankruptcy case on March 14, 2014 under Chapter 11,
 12 which prevented entry of the Judgment in the State Court Action. On June 23, 2014, Thomas filed a
 13 motion to sell the Thomas Emerald for \$200 million to a company called the Koyo Shipping and
 14 Trading Company³. When that turned out to be another sham, this Court converted the Chapter 11
 15 to Chapter 7, by order entered on August 29, 2014 (Docket No. 190 in Thomas’s bankruptcy Case
 16 No. BK-N-14-50333-BTB).

17 On May 31, 2014, Kenmark sued Thomas in this Adversary Proceeding for a determination
 18 of the dischargeability of Thomas’s unpaid debt of \$4.5 million debt pursuant to the settlement in the
 19 State Court Action,⁴ alleging claims for relief under Code §523(a)(2)(A) for fraud and concealment.
 20 Trial is set for October 15, 2015.

21 **3. The Bankruptcy Court Has Core Jurisdiction**

22 The bankruptcy court has jurisdiction of this Adversary Proceeding under 28 U.S.C.
 23 §1334(b) and the General Order of Reference, and may enter a final judgment on all “core” matters.
 24 The Adversary Complaint has three Claims for Relief:

25
 26 ³ This motion was initially filed under seal, however this Court vacated the Order to Seal on
 27 February 11, 2015 (Docket No. 250 in Thomas’s bankruptcy Case No. BK-N-14-50333-BTB).

28 ⁴ Kenmark obtained relief from stay to obtain entry of that Judgment in the State Court Action and
 has submitted a proposed order to the bankruptcy court.

1 - Money Damages for Breach of Contract

2 The First Claim for Relief was likely mooted when this Court granted Kenmark relief from
 3 stay to seek entry of the Judgment, thereby liquidating Kenmark's damages to \$4.5 million plus
 4 interest at 10%. Assuming the Judgment is entered in State Court by the time of trial in this
 5 Adversary Proceeding, Kenmark will have a liquidated claim and therefore not be required to plead
 6 and prove damages against Thomas.

7 - Determination of Dischargeability of the Judgment Code §523(A)(2)

8 The Second and Third Claims for Relief seek a determination of the dischargeability of the
 9 Judgment (debt) under Code §523(a)(2)(A). Congress has expressly defined as core "determinations
 10 as to the dischargeability of particular debts." 28 U.S.C. § 157(b)(2)(I). And "[b]ankruptcy courts
 11 have exclusive jurisdiction over nondischargeability actions brought pursuant to Code § 523(a)(2)
 12 [and] (4)." *Rein v. Providian Fin. Corp.*, 270 F.3d 895, 904 (9th Cir. 2001). Indeed, the Ninth Circuit
 13 has recently referred to §523(a) dischargeability actions as involving "a prototypical bankruptcy
 14 context." *In re Deitz*, 760 F.3d 1038, 1043 (9th Cir. 2014)

15 **4. Stipulated Facts**

16 None.

17 **5. Contested Issues of Law**

18 Kenmark presumes all issues of law are going to be contested.

19 - **False Representations**

20 Code §523(a)(2)(A) excepts from discharge any debt for money, property, services or credit
 21 obtained by a debtor's "false pretenses, false representation, or actual fraud," *In re Jacks*, 266 B.R.
 22 728, 733 (BAP 9th Cir. 2001). To prevail on a theory of false representation, Kenmark must
 23 establish, by a preponderance of the evidence: (1) a misrepresentation, fraudulent omission or
 24 deceptive conduct by Thomas; (2) knowledge by Thomas of the falsity or deceptiveness of his
 25 statement or conduct; (3) an intent to deceive; (4) justifiable reliance by Kenmark on Thomas's
 26 statement or conduct; and (5) damage to Kenmark proximately caused by its reliance on Thomas's
 27 statement or conduct. *Turtle Rock Homeowners Association v. Slyman (In re Slyman)*, 234 F.3d
 28 1081, 1085 (9th Cir.2000), cited in *In re Cabansay*, 2008 WL 3245459, 2 (Bkrcty.N.D.Cal. 2008).

1 A debtor's knowledge and intent to deceive may be inferred from the totality of the
 2 circumstances. *Gertsch v. Johnson & Johnson, Fin. Corp. (In re Gertsch)*, 237 B.R. 160, 167-68
 3 (BAP 9th Cir. 1999). When determining the knowledge element, "[a] representation may be
 4 fraudulent, without knowledge of its falsity, if a person making it is conscious that he has merely a
 5 belief in its existence and recognizes that there is a chance, more or less great, that the fact may not
 6 be as it is represented." *Gertsch*, 237 B.R. at 168 (internal quotation omitted); see also *Houtman v.*
 7 *Mann (In re Houtman)*, 568 F.2d 651, 656 (9th Cir. 1978) ("Reckless indifference to the actual facts,
 8 without examining the available source of knowledge which lay at hand, and with no reasonable
 9 ground to believe that it was in fact correct is sufficient to establish the knowledge element.").

10 The court may find intent to deceive "where there has been a pattern of falsity or from a
 11 debtor's reckless indifference to or disregard of the truth." *Khalil v. Developers Sur. & Indem. Co.*
 12 (*In re Khalil*), 379 B.R. 163, 174-75 (BAP 9th Cir. 2007). Whether reliance is justified depends upon
 13 the "qualities and characteristics of a particular plaintiff, and the circumstances of the particular case,
 14 rather than of the application of a community standard of conduct to all cases." *Field v. Mans*, 516
 15 U.S. 59, 71, 116 S. Ct. 437 (1995). One who receives a fraudulent representation of a fact 'is justified
 16 in relying upon its truth, although he might have ascertained the falsity of the representation had he
 17 made an investigation.'" *Eugene Parks Law Corp. Defined Pension Benefit Plan v. Kirsh (In re*
 18 *Kirsh*), 973 F.2d 1454, 1458 (9th Cir. 1992).

19 Kenmark will prove each of the foregoing elements by a preponderance of the evidence,
 20 including Thomas's intent to deceive from the inception of the transaction. See *New Falls Corp. v.*
 21 *Boyajian (In re Boyajian)*, 367 B.R. 138, 147 (BAP 9th Cir. 2007). Kenmark justifiably relied on
 22 Thomas's false statements and as a result lost a substantial amount of money.

23 - **Concealment of Material Facts**

24 A Code §523(a)(2)(A) claim may also arise from the concealment or intentional non-
 25 disclosure of material facts. *Loomas v. Evans (In re Evans)*, 181 B.R. 508, 515 n.6 (Bankr. S.D.Cal.
 26 1995). It is well-established that nondisclosure of a material fact constitutes a fraudulent
 27 representation under Code §523(a)(2)(A) where the debtor has a duty to disclose. See *Apte v. Japra*
 28 (*In re Apte*), 96 F.3d 1319, 1323-24 (9th Cir. 1996). In a business transaction such as the one

1 between Kenmark and Thomas, the parties owe each other a duty to disclose. *Id.* at 1324. *Hillsman*
2 *v. Escoto (In re Escoto)*, 2014 Bankr. LEXIS 5328 (Bankr. D. Nev. 2014)

3 As in the case of a false representation, a debtor's knowledge and intent to deceive may be
4 inferred by circumstantial evidence and from the debtor's conduct. *Edelson v. Comm'r of Internal*
5 *Revenue*, 829 F.2d 828, 832 (9th Cir. 1987); *Donaldson v. Hayes (In re Hayes)*, 315 B.R. 579, 587
6 (Bankr. C.D.Cal. 2004).

7 Kenmark will also establish, by a preponderance of the evidence, that Thomas had a duty to
8 disclose several material facts, and deliberately chose not to, because he knew Kenmark would never
9 have anted up the \$6,110,000.00 had it known the truth about EP and the value of the Thomas
10 Emerald.

11 Dated: September 22, 2015

12 /s/ Wayne A. Silver
13 Wayne A. Silver, attorney for Plaintiff
14 KENMARK VENTURES, LLC
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15 Attorneys for Plaintiff,
 16 KENMARK VENTURES, LLC

17 **UNITED STATES BANKRUPTCY COURT**
 18 **DISTRICT OF NEVADA**

19 In re:
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 21 THOMAS,
 22 AT EMERALD, LLC,
 23 Debtors.

24 KENMARK VENTURES, LLC

25 Plaintiff,
 v.

26 ANTHONY THOMAS and WENDI
 27 THOMAS,
 28 Defendants.

Case No. BK-N-14-50333-BTB
 Case No. BK-N-14-50331-BTB

Chapter 7

[Jointly Administered]

Adv. Pro. No. 14-5022

PLAINTIFF'S PRE-TRIAL DISCLOSURES

[Fed.R.Bankr.Pro. 7026(A)(3)]

29 Reserving all rights and remedies, KENMARK VENTURES, LLC ("Kenmark") makes the
 30 following pre-trial disclosures pursuant to Fed.R.Bankr.Pro.7026(a)(3):

31 **I. Potential Witnesses**

32 Kenmark expects to call the following witnesses to support its claims, except for
 33 impeachment witnesses:

Name	Address	Summary
Ken Tersini	Address c/o Kenmark's undersigned attorney.	Ken Tersini will testify to the fraud perpetrated by defendant Thomas, the false statements made by Mr. Thomas, and the damages that were incurred as a result as alleged in the Adversary Complaint. Mr. Tersini will also testify about the settlement of the civil trial in Santa Clara Superior Court case No. 108CV130667.
Mark Tersini	Address c/o Kenmark's undersigned attorney.	Mr. Tersini will testify to the fraud perpetrated by defendant Thomas, the false statements made by Mr. Thomas, and the damages that were incurred as alleged in the Adversary Complaint. Mr. Tersini will also testify about the settlement of the civil trial in Santa Clara Superior Court case No. 108CV130667.
Anthony George Thomas	Known to defendant.	May be called as an adverse witness regarding the matters alleged in the Adversary Complaint and settlement of the civil trial in Santa Clara Superior Court case No. 108CV130667.

Kenmark may call the following witnesses to support its claims if the need arises, except for impeachment witnesses:

Name	Last Known Address	Summary
Harriet Davidson	2135 Ascot Drive, Number 18, Moraga, CA 94556	Worked at Electronic Plastics and familiar with loan from Kenmark.
Kenneth Conetto	San Jose, CA	Has information regarding Thomas Emerald.
Shawn Milligan	2240 Glenkirk Court San Jose, CA. 95124	Worked for Kenmark and familiar with issues concerning the Thomas Emerald.

Name	Last Known Address	Summary
Jeffrey Hartlin	Attorney at Paul Hastings.	Attorney that represented Electronic Plastics. Familiar with Joe Kafka, Mr. Thomas and Michael Gardner. May have information regarding loan from Kenmark and representations made by Mr. Thomas.
Lori Puccinelli Stern	33934 California Street San Francisco, CA. 94118 Glodow Nead Communications 1700 Montgomery Street Suite 203, San Francisco, 94111	May have information regarding the Thomas Emerald and discussions with Mr. Thomas.

II. Presentation of Witnesses by Deposition Transcripts

Kenmark does not expect to present the direct testimony of any witnesses through deposition transcripts.

III. Trial Exhibits

Kenmark expects to offer the following documents to support its claims, either through judicial notice or a sponsoring witness, except for impeachment documents:

1. Judgment to be entered in Santa Clara Superior Court case No. 108CV130667.

2. Documents highlighted in yellow in the attached table, referred to by their Exhibit Nos. in Santa Clara Superior Court case No. 108CV130667. Documents that are not highlighted in yellow may be offered by Kenmark to support its claims, except for impeachment documents.

3. Kenmark may also offer the following documents to support its claims, except for impeachment documents:

(a) Documents produced by Defendant Thomas in response to First Request for

Production of Documents, including but not limited to:

Bates Number	Description
AT0001- AT0016, AT0052 – AT0083	Emails between Thomas and Koyo Trading (Dr. Naverette) during April and May, 2015

Bates Number	Description
AT0093 – AT0144	Emails between Thomas and Koyo Trading (Dr. Naverette and Clarke) during February and March, 2015
AT0269 – AT0284	Emerald Purchase Agreement
AT0222	Letter of Intent – Blue Minerals
AT1264	Memo from Thomas to Ruy Saraiva
AT1521 – 1530	East Heritage Holding Agreement and Memorandum of Understanding
AT1326 – 1348	Distribution Agreement between Electronic Plastics and Al Madina Development and Supply
AT0915-AT0934	Memorandum and Order Re: Civil Contempt – E-Smart v. Wayne Drizin, et al., Case No. 3:06-5528 – USDC Northern California
AT0551	Addendum to Asset Purchase Agreement – New Line
AT0527 – AT0529	Asset Purchase Agreement – New Line
AT0269 – AT0283	Purchase Agreement – Venado Resources, LLC and Thomas

(b) All documents attached as Exhibits to the Adversary Complaint in the above-captioned Adversary Proceeding.

Dated: September 16, 2015

/s/ Wayne A. Silver

Wayne A. Silver, attorney for Plaintiff
KENMARK VENTURES, LLC

Exhibit	Date	Description	Bates
		Memorandum re: e-Smart litigation and letter to Whom it May	
0001	06/26/07	Concern from Glen T. Jonas	2 pages
0002	02/17/04	History of the Thomas Emerald	K0160 - K0161
0003	12/03/06	Harrison Steele Parners PP Appraisal	K0123 - K0124
0004	02/22/07	jnh World Forensics, LLC Appraisal	K0146 - K0152
0005	03/23/07	Ringsrud Gemology Emerald Report	K0158 - K0159
0006	09/23/09	Ringsrud Gemology Emerald Report	ATE0033 - ATE0036
0007	11/04/09	Letter to Whom it May Concern from Lori Puccinelli with attachment	ATE0019
0008	11/05/01	Appraisal by Dimitri Paraskevopoulos	K0154 - K0155
0009	02/xx/07	Electronic Plastics, LLC Business Plan	K0391 - K0410
0010	07/12/07	E-mail chain re: Honeywell Meeting	K0666 - K0668
0011	06/28/07	E-mail to Ken Tersini from Tony Thomas re: Emerald Particulars	K0594
0012	07/18/07	Secured Demand Note	K0682 - K0683
0013	07/06/07	E-mail chain re: Yubecom/Norfied	K0595 - K0596
		E-mail to Ken Tersini from Tony Thomas re: Guaratee from StarVan	
0014	06/19/07	Korea	K0622
0015	04/22/09	Electronics Plastics (Tony Thomas) Funding History as of 4/22/09	K0545 - K0563
0016	10/25/07	Secured Demand Note	K0684 - K0685
0017	10/25/07	Security Agreement	K0688 - K0691
			K0686 - K0687;
0018	10/25/07	KT-EPC Interim Funding Agreement	K0677; K0592
0019	05/29/08	Letter to Tony Thomas and Michael Gardiner from Peter Klin	ATE0015 - ATE0016
0020		Letter to Ken from Tony	K0692
0021	07/10/08	Written Consent of the Sole Member of AT Emerald, LLC	ATE0111 - ATE0112
0022		Asset Purchase Agreement from New Line	ATE0127 - ATE0137
		Shareholders Agreement by and between EP International LLC and	
0023	06/08/08	New Line Trading an Al Serkal Group Company	K0240 - K0252
0024		Investment Suisse Irrevocable Letter of Offer	ATE0140 - ATE0149
0025		Letter of Intent between Al Serkal Group and Idsmart	
		Joint Venture Agreement between AT Emeral, LLC and Shire	
0026		International, Ltd	ATE0051 - ATE0059
0027		Order to Cease and Desist	ATE0049 - ATE0050
		Distribution Atreement between Electronic Plastics, LLC a Delaware	
0028		LLC and Al Madina Development & Supply LLC	K0643 - K0665
		E-mail to Michael Gardiner and Thomas Thomas from Don Fulghum,	
0029		Subject: UAE Trip Summary and attachment	K0605 - K0612
0030	01/13/10	Letter to Joseph Scanlan from Joseph Kalka, with attachments	
		Letter to Michael Gardiner from Anthony Thomas re: Electronic	
0031	03/26/09	Plastics, LLC	ATE0024
0032	11/06/08	Letter to Peter Kline from Joseph Kalka	ATE0008
0033		E-mail chain, subject: Honeywell Call Update	K0598 - K0599
		E-mail to Jeffrey Hartlin from Peter Kline, re: Business Funding	
0034		Agreement, with attachment	ATE0174 - ATE0186
		Deposition Subpoena for Personal Appearance and Production of	
0035	04/20/10	Documents and Things	

Exhibit	Date	Description	Bates
0036	06/01/10	Proof of Personal Service and Notice of Taking Deposition	8 pages
0037	06/10/10	E-mail chain between Joseph Scanlan and Ron Ringsrud	1 page
		Plaintiff's Notice of Taking Deposition of Harriett L. Davidson with	
0038	07/15/10	Production of Documents and Things	10 pages
0039		Reimbursed Expenses	1 page
0040		Top Twenty Vendors ID Smart LLC	1 page
0041		List of Top Twenty Creditors	1 page
0042		List of Creditors Sub C	7 pages
0043		List of Creditors ID Sub A	3 pages
0044		Inventory ID	1 page
0045		Max Payments to EP LLC	1 page
0046		Income Statement DP 07	1 page
0047		Advances to Owners Sub E Corrected	1 page
0048		Account Name: Property Plants & Equipments	5 pages
0049		Transfer from Proof	2 pages
0050		Per Payroll Amounts	1 page
0051		Balance Sheet ID 08	1 page
0052	12/31/08	Electronic Plastics LLC Balance Sheet	2 pages
0053		IS Smart Income Statement	1 page
		Letter to Joseph A. Scanlan, jr. from Raul A. Mayorga with	
0054	08/09/10	attachments	
0055		Assets ID Sub B	1 page
0056		Per Payroll Amounts	1 page
0057		Copy of Proof of Deposits	1 page
		Electronic Plastics LLC, LLC Agreement Summary of Material Terms	
0058		and Issues List	K0097 - K0099
0059	08/23/07	E-mail from Hartlin to Kline re: Business Funding Agreement	K0125 - K0144
0060		Limited Liability Company Agreement for Electronic Plastics, LLC	K0336 - K0389
		E-mail from Hartlin to Jooperske@aol.com re: Electronic Plastics LLC	
0061	04/12/08	Agreement	K0438 - K0489
0062	08/12/10	Notice of Taking Deposition (of AT Emeralds PMK)	
		Declaration of Anthony Thomas (in Opposition to Release of	
0063	01/23/09	Property)	
0064	07/10/08	Written Consent of the Sole Member of AT Emerald, LLC	ATE0111 - ATE0112 dup
0065	09/02/08	Order to Cease and Desist	ATE0049 - ATE0050 dup
0066	05/23/08	Rental Agreement for Sarasota Vault Depository	ATE0039 dup
0067	10/25/07	Security Agreement	K0688 - K0691 dup
0068			
0069			
0070	04/22/09	Electronic Plastics Funding History	K0545
0071	various	Wire transfer requests	K0547 - K0563
0072	06/24/07	E-mail from Carl McNeice to Ken Tersini	K0623
0073	06/27/07	E-mail from Tony Thomas to Ken Tersini with attachment	K0430 - K0431
		Secured Demand Note between Electronic Plastics, LLC, Tony	
0074	07/18/07	Thomas and Kenneth Tersini	K0682 - K0683

Exhibit	Date	Description	Bates
0075	08/xx/07	Business Funding Agreement between Kenmark Ventures and Electronic Plastics, LLP and Tony Thomas	K0411 - K0421
0076	09/xx/07	Electronic Plastics LLC Corporate Overview, Draft	K0090 - K0091
0077	09/15/07	E-mail from Tony Thomas to Ken Tersini with forwarded message and attachment	K0267 - K0286
0078	09/17/07	IDSsmart Meeting Notes	
0079	08/24/07	E-mail from Peter Kline to Jeffrey Hartlin, with previous messages	ATE0172 - ATE0173
0080	01/05/08	E-mail from Peter Kline to Jeffrey Hartlin	ATE0257 - ATE0258
0081	09/11/07	E-mail from Peter Kline to Vandoren and Tony Thomas with attachments	ATE0188 - ATE0205
0082	07/18/07	Secured Demand Note between Electronic Plastics, LLC, Tony Thomas and Kenneth Tersini	K0682 - K0683
	11/04/07	Secured Demand Note between Electronic Plastics, LLC, Tony Thomas and Kenmark Ventures, LLC, with handwritten interlineations	
0083	10/25/07		K0684 - K0685
0084	08/xx/07	Security Agreement between Tony Thomas and Kenmark Ventures, LLC, with handwritten interlineations	
0084	10/25/07		K0688 - K0691
0085	10/25/07	KT-EPC Interim Funding Agreements	K0686; K0677; K0592
0086	05/29/08	Letter from Peter Kline to Tony Thomas and Michael Gardiner	ATE0015 - ATE0016
0087	06/04/08	Letter from Peter Kline to Tony Thomas and Michael Gardiner	K0620
0088	10/31/08	Letter from Peter Kline to Tony Thomas	
0089	11/06/08	Letter from Joseph Kafka to Peter Kline	ATE0008
0090		Electronic Plastic, LLC Agreement Summary of Material Terms and Issues List	K0097 - K0099
0091	01/11/08	E-mail from Jeffrey Hartlin to Peter Kline, with attachments: Limited Liability Company Agreement for Electronic Plastics, LLC, a Delaware Limited Liability Company	ATE0261 - ATE0367
0092 - 0149 INTENTIONALLY SKIPPED			
0150		Handwritten Notes	5 pages
		Declaration of Michael Gardiner in Support of Defendants'	
		Memorandum in Opposition to Plaintiffs' Motion for a Temporary	
0151		Restraining Order	38 pages
0152		Ken Distribution Jan - Aug 1.3 mil	4 pages
0153		Accounting Document, September to December '07	2 pages
0154		Accounting Document	4 pages
0155		Accounting Document	4 pages
0156		Assets	4 pages
0157		Assets	1 page
0158		Salary Breakdown	3 pages
0159		Distribution of Funds May '06 - September '07	6 pages
0160		Checks written against 300k received Sept.	1 page
0161		Accounting Document	2 pages
0162		Accounting Document	4 pages
0163		Cash Flow Statement	1 page
0164		Accounting Document	2 pages

Exhibit	Date	Description	Bates
0165		Accounting Document	2 pages
0166		Accounting Document	6 pages
0167		Liabilities	1 page
0168	05/15/07	Letter to Whom it May Concern from Anthony G. Thomas	2 pages
0169	05/16/06	Investment Agreement	2 pages
0170	06/10/07	Agreement between Michael Gardiner and Anthony Thomas	1 page
0171		IDSmart, The Sensor Card	K0100 - K0102
0172	06/28/07	E-mail re: Emerald Particulars	1 page
0173	04/23/08	E-mail re: Items for Discussion	1 page
0174	04/23/08	E-mail re: Issues and Action Plan from Tuesday Call	1 page
0175	10/23/08	E-mail re: Funding	2 pages
0176		AT Emeral, LLC Commission Agreement	2 pages
0177		Contract of Establishment of a Joint Participation Company with a Capital of AED 2.00	
0178		Color Photographs and other documents re: Emerald	
0179 - 0200 INTENTIONALLY SKIPPED			
M0001	06/28/07	Safe Deposit Box Lease Agreement	ATE0020 - ATE0023
M0002	05/23/08	Rental Agreement for Sarasota Vault Depository	ATE0039

CERTIFICATE OF SERVICE

I served the foregoing PLAINTIFF'S PRE-TRIAL DISCLOSURES; CERTIFICATE OF SERVICE by the following means on September 16, 2015 to the persons listed below:

XX Regular mail: I caused service of this document to be made on September 16, 2015 by regular, first class United States mail, postage fully pre-paid, addressed to:

Anthony Thomas
Wendi Thomas
7725 Peavine Peak Court
Reno, NV 89523

I declare under penalty of perjury that the foregoing is true and correct. Signed this 16th day of September, 2015 at Sunnyvale, CA.

/s/ Kevin J. LeBlanc
Kevin J. LeBlanc

1 WAYNE A. SILVER, Esq. (CA 108135)
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 3 Sunnyvale, California 94087
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 11 Reno, NV 89509
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 14 Fax. (775) 828-0914

15 Attorneys for Plaintiff,
 16 KENMARK VENTURES, LLC

17 **UNITED STATES BANKRUPTCY COURT**
 18 **DISTRICT OF NEVADA**

19 In re:
 20 ANTHONY THOMAS and WENDI
 21 THOMAS,
 22 AT EMERALD, LLC,
 23 Debtors.

24 KENMARK VENTURES, LLC

25 Plaintiff,
 v.

26 ANTHONY THOMAS and WENDI
 27 THOMAS,
 28 Defendants.

Case No. BK-N-14-50333-BTB
 Case No. BK-N-14-50331-BTB

Chapter 7

[Jointly Administered]

Adv. Pro. No. 14-5022

**PLAINTIFF'S FIRST SUPPLEMENT TO
 PRE-TRIAL DISCLOSURES**

[Fed.R.Bankr.Pro. 7026(A)(3)]

Reserving all rights and remedies, KENMARK VENTURES, LLC ("Kenmark") makes the following first supplement to pre-trial disclosures pursuant to Fed.R.Bankr.Pro.7026(a)(3):

III. Additional Trial Exhibits

Kenmark expects to offer the following additional documents to support its claims, either through judicial notice or a sponsoring witness, except for impeachment documents:

1 **1. Request for Judicial Notice**

2 Kenmark will ask the bankruptcy court to take judicial notice of the following:

3 Documents filed in the Chapter 7 bankruptcy case of Electronic Plastics, LLC, Case No. 09-
 4 53721, including but not limited to the bankruptcy schedules and statements, Proofs of Claim
 5 and the Claims Register, and pleadings regarding the sale of certain property.

6 Documents filed in Los Angeles Superior Court Case No. BS118649 styled *Kenneth Conetto*
 7 *by Eric Kitchen v. Kit Morrison and Todd Armstrong*, including but not limited to the
 8 Tentative and Proposed Statement of Decision filed on April 8, 2011.

9 Documents filed in civil action No. 06-5528 in the U.S. District Court for the Northern
 10 District of California styled *E-Smart Technologies, Inc. et al. v. Drizin, et al.*, including but
 11 not limited to the First Amended Complaint.

12 Documents filed in civil action No. 11-00895 in the U.S. District Court for the District of
 13 Columbia styled *U.S. Securities and Exchange Comm v. E-Smart Technologies, et al.*,
 14 including but not limited to the Complaint and Court decisions in various motions for
 15 summary judgment.

16 The Complaint and Answer in the above-captioned Adversary Proceeding No. 14-5022.

17 Documents filed in the above-captioned bankruptcy cases of ANTHONY THOMAS and
 18 WENDI THOMAS, and AT EMERALD, LLC, Case Nos. BK-N-14-50333-BTB and BK-N-
 19 14-50331-BTB, respectively, including but not limited to Kenmark's Motion for Relief from
 20 Stay.

21 Documents from the California Secretary of State regarding Electronic Plastics, Inc.

22 Documents from the Nevada Secretary of State regarding Electronic Plastics, Inc.

23 Additional documents to be offered:

24 Discovery requests in the above-captioned Adversary Proceeding No. 14-5022, including but
 25 not limited to Kenmark's Request for Production of Documents and Requests for Admission,
 26 and Thomas's objections and responses thereto.

27 Dated: September 22, 2015

28 _____
 29 /s/ Wayne A. Silver

30 Wayne A. Silver, attorney for Plaintiff
 31 KENMARK VENTURES, LLC

CERTIFICATE OF SERVICE

I served the foregoing PLAINTIFF'S FIRST SUPPLEMENT TO PRE-TRIAL
DISCLOSURES; CERTIFICATE OF SERVICE by the following means on September 22, 2015 to
the persons listed below:

XX Regular mail: I caused service of this document to be made on September 22, 2015 by regular, first class United States mail, postage fully pre-paid, addressed to:

Anthony Thomas
Wendi Thomas
7725 Peavine Peak Court
Reno, NV 89523

I declare under penalty of perjury that the foregoing is true and correct. Signed this 22nd day of September, 2015 at Sunnyvale, CA.

/s/ Kevin J. LeBlanc
Kevin J. LeBlanc

CERTIFICATE OF SERVICE

I served the foregoing PLAINTIFF KENMARK VENTURES, LLC'S TRIAL STATEMENT; CERTIFICATE OF SERVICE by the following means on September 22, 2015 to the persons listed below:

XX Regular mail: I caused service of this document to be made on September 22, 2015 by regular, first class United States mail, postage fully pre-paid, addressed to:

Anthony Thomas
Wendi Thomas
7725 Peavine Peak Court
Reno, NV 89523

I declare under penalty of perjury that the foregoing is true and correct. Signed this 22 day of September, 2015 at Sunnyvale, CA.

/s/ Kevin J. LeBlanc
Kevin J. LeBlanc